1933

The Late Sir Ahmad Khan brought a Bill in the Legislative Council in 1880, which was passed as Act No. XII of 1880 and was named Kazis Act. That Act authorized the Local Government to appoint Kazis for any particular area on the desire of the Muslim community living in that area, but gave him absolutely no powers.

Thus it is only to meet a well recognized and old standing need of the Muslim community that this Bill is being introduced. Its scope is very restricted as it gives much smaller powers to the Kazi than the functions that were allotted to him under the Muslim Law or were even recognized by the earlier British Legislature. It deals chiefly with the registration of marriage, which is effected by the Kazis and for the disposal of suits relating to marriage, divorce and dissolution of marriages for which a tribunal consisting of a Kazi, an *Alim* and a Vakil has been proposed. As the Muslim personal law in this matter is very strict, provisions of appeals to the District Judge and the High Court have been effected in the form of opinion from those courts. While this would not very much alter the procedure in Indian Courts, it would meet the requirements of Muslim Law, and it is expected that the long-felt want of the Muslim community would be met by this Bill.

MOHAMMAD AHMAD KAZMI.

BILL NO. 91 OF 1950

A Bill further to amend the Indian Penal Code (XLV of 1860) and the Code of Criminal Procedure (V of 1898).

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 195 .

(2) It shall come into force at once.

2. *Amendment of section 375, Act XLV of 1860.*—In section 375 of the Indian Penal Code (XLV of 1860) in clause 'Fifthly' for the word "sixteen", the word "eighteen" shall be substituted.

3. *Amendment of section 376, Act XLV of 1860.*—To section 376 of the Indian Penal Code (XLV of 1860) the following shall be added at the end, namely :—

> "or unless the woman is between sixteen and eighteen years of age and is a consenting party to the sexual intercourse in which case he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both".

4. *Amendment of Schedule II, Act V of 1898.*—In Schedule II to the Code of Criminal Procedure, 1898 (V of 1898) before the entry relating to the heading

434

'in any other case' against section 376 of the Indian Penal Code (XLV of 1860) the following shall be inserted, namely :—

"If the sexual intercourse was with a woman between sixteen and eighteen years of age and she was a consenting party	—Ditto—	—Ditto—	—Ditto—	Compoundable	Imprisonment of either description for 2 years or fine or both	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the First Class"

STATEMENT OF OBJECTS AND REASONS

This Bill is designed to raise the age of consent of girls in extra-marital cases of rape to 18 years from 16 years as it is at present. As to the age of consent the Committee recommended the raising of age to 18 years but the recommendations have not been given effect to so far.

2. Now under the present stress of civilisation when better and more extensive opportunities exist for college and other kinds of education and employment in factories and offices, a young girl is more exposed than before and requires more protection. The age of a girl between 16 and 18, when she has no experience of the world, is the age when the law should cast its protecting wings around her. Her immature judgment and inexperience of worldly affairs entitles her to be treated as not fully grown up and nobody should be allowed to take advantage of her undeveloped intellect. In the eye of the law a girl of 18 is an infant, not capable of disposing of her properties. Obviously, therefore, the age of consent at the extra-marital case should not be less than 18.

3. A girl of 16 to 18, though not possessed of full developed intellect, is still in some cases fairly competent to understand consequences as well to express her mind and represent her feelings. In some cases young students or workers may be victimized and situations may arise when the enormity of the offence is very much mitigated by the surrounding circumstances. In such cases the parties should have the power of compromise in their own hands to avoid harassment of the law. It is therefore expedient to make the offence compoundable when the age of the girl is between 16 and 18 years.

In the present circumstances of the society, it is both necessary to give protection to young girls below 18 years by raising the extra-marital age to 18 and at the same time not to treat the offender very harshly in case the girl is a consenting party.

THAKUR DAS BHARGAVA.